

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOSHUA BRAUNDMEIER, and KEVIN
WALLACE, on behalf of himself and all others
similarly situated,

Plaintiffs,

v.

ANCESTRY.COM OPERATIONS INC., a
Virginia Corporation; ANCESTRY.COM INC., a
Delaware Corporation; ANCESTRY.COM LLC,
a Delaware Limited Liability Company,

Defendants.

Case No. 1:20-cv-07390

Judge Jeffrey I. Cummings

DECLARATION OF BENJAMIN R. OSBORN

I, Benjamin Osborn, hereby declare as follows:

1. I am an attorney representing Plaintiffs in this matter.
2. Attached as **Exhibit 1** is a true and correct copy of Ancestry_00000229-238, which has been marked CONFIDENTIAL and filed under seal.
3. Attached as **Exhibit 2** is a true and correct copy of Ancestry_00000245-246, which has been marked CONFIDENTIAL and filed under seal.
4. Attached as **Exhibit 3** is a true and correct copy of the transcript of the Rule 30(b)(6) deposition of Todd Godfrey in the related matter *Sessa v. Ancestry.com*, Case No. 2:20-cv-02292 (D. Nev.), dated October 5, 2022, which has been marked CONFIDENTIAL and has been filed under seal with a redacted version filed publicly.
5. Attached as **Exhibit 4** is a true and correct copy of Ancestry_00001624-1680, which has been marked HIGHLY CONFIDENTIAL – Attorneys’ Eyes Only and filed under seal.

6. Attached as **Exhibit 5** is a true and correct copy of Ancestry_00001975-1983, which has been marked HIGHLY CONFIDENTIAL – Attorneys’ Eyes Only and filed under seal.
7. Attached as **Exhibit 6** is a true and correct copy of Ancestry_00002004, which has been marked CONFIDENTIAL and filed under seal.
8. Attached as **Exhibit 7** is a true and correct copy of ANCESTRY_00001776-1778, which has been marked HIGHLY CONFIDENTIAL – Attorneys’ Eyes Only and filed under seal.
9. Attached as **Exhibit 8** is a true and correct copy of Ancestry_00000214-217, which has been marked CONFIDENTIAL and filed under seal.
10. Attached as **Exhibit 9** is a true and correct copy of Ancestry’s Responses and Objections to Plaintiffs’ Second Set of Interrogatories, dated January 23, 2023, which contains CONFIDENTIAL information and has been filed under seal with a redacted version filed publicly.
11. Attached as **Exhibit 10** is a true and correct copy of Ancestry’s “School yearbook Submission Program” form, Ancestry_00001024-1025.
12. Attached as **Exhibit 11** is a true and correct copy of Ancestry’s “Terms and Conditions – Revision as of October 6, 2010,” Ancestry_00000716-722.
13. Attached as **Exhibit 12** is a true and correct copy of Ancestry’s “Terms and Conditions,” dated May 10, 2021, Ancestry_00000723-736.
14. Attached as **Exhibit 13** is a true and correct copy of Plaintiff Braundmeier’s Answers and Objections to Ancestry’s First Set of Interrogatories, dated April 17, 2023, which contain CONFIDENTIAL information and have been filed under seal with a redacted version filed publicly.
15. Attached as **Exhibit 14** is a screen capture from www.ancestry.com. I captured this screenshot from the publicly available yearbook search page on www.ancestry.com.

16. Attached as **Exhibit 15** is a true and correct copy of Ancestry_00001044-1053, which has been marked CONFIDENTIAL and filed under seal.

17. Attached as **Exhibit 16** is a true and correct copy of the Declaration of Robert Weis, which has been marked CONFIDENTIAL and filed under seal.

18. Attached as **Exhibit 17** is a true and correct copy of the Declaration of Kyle Yetter, which has been marked CONFIDENTIAL and filed under seal.

19. Attached as **Exhibit 18** is a video exhibit created during the Rule 30(b)(6) deposition of Todd Godfrey in this matter, *Braundmeier v. Ancestry.com*, Case No. 1:20-cv-07390 (N.D. Ill.), dated June 9, 2023, showing the pages that appear when a visitor searches for Plaintiff Braundmeier on www.ancestry.com.

20. Attached as **Exhibit 19** is a video exhibit created during the Rule 30(b)(6) deposition of Todd Godfrey in this matter, *Braundmeier v. Ancestry.com*, Case No. 1:20-cv-07390 (N.D. Ill.), dated June 9, 2023, showing the pages that appear when a visitor searches for Plaintiff Wallace on www.ancestry.com.

21. Attached as **Exhibit 20** is a true and correct copy of Plaintiff Wallace's Answers and Objections to Ancestry's First Set of Interrogatories, dated April 17, 2023 which contain CONFIDENTIAL information and have been filed under seal with a redacted version filed publicly.

22. Attached as **Exhibit 21** is a true and correct copy of the Stipulation Regarding Discovery Dispute, dated December 11, 2023, which has been marked CONFIDENTIAL and filed under seal.

23. I graduated from Harvard Law School in 2010.

24. After graduating law school, I was counsel in *In re: Google Buzz Privacy Litig.*,

No. 10-cv-00672-JW (N.D. Cal.). I drafted the complaint. Plaintiffs alleged that by automatically signing up all Gmail users to its newly created social network without their consent, Google violated Gmail users' privacy and incurred statutory damages under the federal Stored Communications Act. Plaintiffs secured a settlement of \$8.5 million for the class.

25. From 2011 to 2016, I was a litigation associate at Cravath, Swaine & Moore LLP in New York. Cravath uses a rotational system that provides its associates exposure to a wide variety of case types. I represented clients in litigations of many types, including antitrust, patent, trademark, and contract law.

26. From 2017 to 2020 I was an investment associate at Bridgewater Associates, a hedge fund in Westport, Connecticut.

27. In 2020 I founded the Law Office of Benjamin R. Osborn. I am the sole member of my firm. For the past two years my practice has been dedicated to the defense of individuals' rights against companies that misappropriate names and likenesses without consent to advertise commercial products and services.

28. I am counsel in a number of active cases asserting claims under state right of publicity statutes against websites that use individuals' personal information without permission to advertise subscriptions. Through my work in these cases, I have briefed and/or argued over a dozen motions to dismiss or strike, all but one of which resulted in favorable rulings for my clients. I have also briefed, and in one case argued, several Circuit Court appeals, one of which resulted in a favorable ruling for my clients, and one of which the defendant voluntarily dismissed.

29. The relevant cases in which I am counsel include: *Batis v. Dun & Bradstreet*, 3:22-cv-01924-MMC (N.D. Cal.); *Bonilla v. Ancestry*, 20-cv-7390 (N.D. Cal.); *Boshears v. PeopleConnect*, 21-cv-01222-MJP (W.D. Wash); *Callahan v. Ancestry*, 20-cv-087437 (N.D.

Cal.); *DeBose v. Dun & Bradstreet*, 22-cv-00209 (D. N.J.); *Fry v. Ancestry*, 22-cv-00104 (N.D. Ind.); *Gbeintor v. InsideView*, 21-cv-09470 (N.D. Cal.); *Izzo v. PeopleConnect*, 22-cv-00016 (W.D. Wash); *Kellman v. Spokeo*, 21-cv-08976 (N.D. Cal.); *Mackey v. PeopleConnect*, 21-cv-08976 (N.D. Cal.); *Martinez v. ZoomInfo*, 21-cv-05725 (W.D. Wash); *Sessa v. Ancestry*, 20-cv-02292 (D. Nev.); *Uharriet v. MyLife*, 21-cv-08229 (N.D. Cal.); and *Wilson v. Ancestry*, 22-cv-00861 (S.D. Oh.).

30. Through my work on these cases, I have become well versed on legal issues relevant to this case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 14th day of December, 2023.

/s/ Benjamin R. Osborn
Benjamin R. Osborn

CERTIFICATE OF SERVICE

I, Raina C. Borrelli, hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record via the ECF system.

DATED this 14th day of December, 2023.

TURKE & STRAUSS LLP

By: /s/ Raina C. Borrelli
Raina C. Borrelli
raina@turkestrauss.com
TURKE & STRAUSS LLP
613 Williamson St., Suite 201
Madison, WI 53703
Telephone: (608) 237-1775
Facsimile: (608) 509-4423